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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,048	09/18/2003	Deepak Tandon	A03148US (98786.5)	6581
	7590 04/06/2007 FH NEHRBASS & NORT	EXAMINER		
LAKEWAY 3, S	SUITE 3290	HENDRICKSON, STUART L		
3838 NORTH CAUSEWAY BLVD. METAIRIE, LA 70002			ART UNIT	PAPER NUMBER
, 2	70002		1754	
SHORTENED STATUTORY	PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE	
3 MONTHS		04/06/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

1)⊠ Responsive to communication(s) filed on 30_January 2007. 2a]☐ This action is FINAL. 2b)⊠ This action is non-final. 3]☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4]☑ Claim(s)							
Examiner Stuart Hendrickson 1754			Application No.	Applicant(s)			
Stuart Hendrickson 1754 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - If NO period for reply is specified above, the mainting date of this communication. - If NO period for reply is specified above, the mainting date of this communication. - Failure to spign within the size or detendendendendendendendendendendendendende	Office Action Summary		10/666,048	TANDON ET AL.			
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WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Editarious of time may be windle under the provides of 3/2 FR. 135(a). In ne event, however, may a reply be timely filed after SIX (6) MONTISS from the mailing date of this communication. Failth or time you will write the communication of the communication of the provided will expire SIX (6) MONTISS from the mailing date of this communication. Failth or time you will the start or eventeded parted for review life by statute, cause the septication to become ABANDONEO (36 U.S.C. § 133). Any reply received by the Clifica better than dress modern than department. See 37 CFR 1.704(b). Status 1) □ Responsive to communication(s) filed on 30 January 2007. 2a) □ This action is FINAL. 2b) □ This action is FinAL. 2b) □ This action is non-final. 3 □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4 □ Claim(s) 1-36 is/are pending in the application. 4a) Of the above claim(s) 4-7.10-16 and 26-36 is/are withdrawn from consideration. 5 □ Claim(s) 1-38,93 and 17-25 is/are rejected. 7 □ Claim(s) 1-38,93 and 17-25 is/are rejected. 7 □ Claim(s) 1-38,93 and 17-25 is/are rejected. 9 □ The specification is objected to by the Examiner. 10 □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in aboyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) solected to. See 37 CFR 1.121(d). 11 □ Certified copies of the priority documents have been received in Application No. 3 □ All b) □ Some * c) □ None of: 1 □ Certified copies of the priority documents have been received in Application No. 3 □ Copies of the certified copies of the priority documents have been received in Application No. 3 □ Copies of the certified copies of	Period fe		pears on the cover sheet with t	he correspondence address			
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Application/Control Number: 10/666,048

Art Unit: 1754

Applicant's election with traverse of Group I in the reply filed on 1/30/07 is acknowledged. The traversal is on the ground(s) that there is no search burden and are interrelated. This is not found persuasive because carbon blacks which are suitable for food may not be suitable for inks or rubber tires and vice-versa. There is a serious burden of search. The requirement is still deemed proper and is therefore made FINAL. Claims 4-7, 10-16 and 26-36 are withdrawn from further consideration.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2, 18-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a) In claim 2, it is not clear how a carbon black can be from both groups.
- b) Claim 25 is unclear as to what 'type' encompasses.
- c) Claim 19 is unclear as to what 'stronger structure' means.
- d) Claim 20 is unclear, as FDA requirements can change. Perhaps 'generally recognized as safe' is meant.
- e) Claims 18 and 21-25 are unclear as to the basis for comparison.
- f) Claim 24 contains improper Markush language.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1754

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 8, 9, 17-25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Yoshimura et al. 4693879.

The refe rence teaches, in the entire document but in col. 8 and 9 especially, carbon black having the claimed properties subject to heat treatment. The intended use does not limit the product. Although the heat treatment is not identical to what is claimed, where the examiner has found a substantially similar product as in the applied prior art the burden of proof is shifted to the applicant to establish that their product is patentably distinct not the examiner to show that the same process of making, see In re Brown, 173 U.S.P.Q 685, and In re Fessmann, 180 U.S.P.Q. 324. No difference is seen in the effect of the treatment (claim 9).

Claims 1-3, 8, 9, 17-25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Johnson 3408164.

The reference teaches, in the entire document but in col. 8 and 9 especially, carbon black having the claimed properties subject to heat treatment. The intended use does not limit the product. Although the heat treatment is not identical to what is claimed, where the examiner has found a substantially similar product as in the applied prior art the burden of proof is shifted to the applicant to establish that their product is patentably distinct not the examiner to show that the same process of making, see In re Brown, 173 U.S.P.Q 685, and In re Fessmann, 180 U.S.P.Q. 324. No difference is seen in the effect of the treatment (claim 9).

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.

Stuart Hendrickson examiner Art Unit 1754